IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Bail Appl..No. 5166 of 2007(J)

CRIME NO. 376/07 OF MUVATTUPUZHA POLICE STATION

PETITIONER/2ND ACCUSED:

JAMES GEORGE, AGED 36 YEARS,
S/O. GEORGE, CHOORAPUZHA HOUSE, VAZHAKULAM P.O.,
MANJALOOR, MUVATTUPUZHA-686 670.

BY ADV. SRI.SUJITH MATHEW JOSE

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA (FOR SUB INSPECTOR OF POLICE,
MUVATTUPUZHA - CRIME NO.376/2007,MUVATTUPUZHA P.S)

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5166 of 2007

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Dated this the 6th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused. He faces allegations, inter alia, under Sections 468 and 471 I.P.C. The crime has been registered on the basis of a complaint lodged by the officials of the Motor Vehicles department.

2. The crux of the allegations is that the petitioner had applied for transfer of a vehicle from the name of the first accused to his name and for endorsement of the hypothecation agreement in the registration certificate. Suspicions were aroused. Verification was made. It was revealed that the registration certificate produced by the petitioner was not a genuine registration certificate. The number of the vehicle shown therein really referred to a two wheeler registered at a different R.T. office. It is in this context that the Motor Vehicles authorities filed the complaint before the police. Investigation is in progress. The first accused has not been arrested so far. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that rationally and logically it is easy to come to a conclusion that the petitioner has no contumacious involvement in the commission of the crime. He is a bonafide purchaser. He agreed to purchase the vehicle, take a loan on the vehicle, get the hire purchase agreement endorsed in the vehicle and thereafter took delivery of the vehicle from the first accused. It is now realised that the transaction is not a genuine one. The petitioner has resiled from the transaction and he has nothing to do with the first accused now. The learned counsel for the petitioner brings to the notice of the court that the petitioner was also taken for a ride and made to believe that it was a genuine transaction. The counsel particularly relied on the earlier endorsement in the registration certificate, which shows that another Financier/Bank had earlier advanced amount to the first accused on the strength of the registration certificate which is now sought to be forged. The learned counsel, in these circumstances, submits that the petitioner, who is a victim of fraud, does not deserve to endure the trauma of arrest and incarceration.

4. Notice was given to the learned Prosecutor. After detailed discussions at the Bar, the learned Prosecutor also does not fairly oppose

the application for anticipatory bail. I have been taken through the case diary in detail. I am satisfied, in these circumstances, that this is an eminently fit case where, subject to appropriate conditions, the petitioner can be granted anticipatory bail.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 12.9.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 13.9.07, and 14.9.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 12.9.07 and the

police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 12.9.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 12.9.2007.

(R. BASANT)
Judge

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